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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,455	12/05/2003	Harold R. Van Aken	97634.00177	1078

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EXAMINER

SAJOUS, WESNER

ART UNIT PAPER NUMBER

2676

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/729,455	Applicant(s) VAN AKEN ET AL.	
	Examiner Sajous Wesner	Art Unit 2676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/4/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remark

This communication is responsive to the amendment and response dated September 13, 2005. Claims 1-20 are presented for examination.

Response to Arguments

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-18, and 20 rejected under 35 U.S.C. 102(b) as being anticipated by Van Aken et al. (US 6043894).

Considering claim 1, Van Aken, at figs. 1-4, discloses a method for transforming color measurement data comprises providing a data transform or delta profile (20, fig. 1) transforming color measurement data from a first color calibration standard (via item 16 of fig. 1) to a second color calibration standard used by a second color measuring instrument (e.g., the remote color instrument laboratory via item 20 of fig. 1; see col. 3, lines 20-37); obtaining color measurement data using a first color measuring instrument

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(e.g., master color lab 10) based on the first color calibration standard (see col. 3, lines 26-51); and selectively transforming the color measurement data using the data transform or delta profile, so as to restandardize the color measurement data to the second color calibration standard (see col. 3, lines 53-67 and col. 4, line 25 to col. 5, line 19).

Re claim 2, Van Aken discloses the data transform or delta profile (20/28) is inherently stored in a computer memory and is accessed by a processor (22, see fig. 1).

As per claim 4, Van Aken discloses the selectively transforming is effected automatically upon obtaining color measurement data using the first color measurement. See col. 3, lines 26-51, and col. 5, lines 47-52.

Re claim 5, Van Aken discloses, at fig. 5, discloses the equivalence for comparing the restandardized color measurement data to other color measurement data generated using the second color calibration standard. See col. 4, lines 30-42, and col. 5, lines 11-19.

As per claim 6, Van Aken discloses updating the data transform or delta profile based on current measurement data measurements. See fig. 5 and col. 4, lines 30-67.

Re claim 7, Van Aken discloses the first color-measuring instrument is a spectrophotometer. See col. 5, lines 20-22.

Re claim 8, Van Aken, at col. 5, lines 20-22, inherently discloses that the first color-measuring instrument is a spectrophotometer.

As per claim 10, Van Aken discloses a plurality of data transforms or delta profiles (20, fig. 1) are provided, each of the plurality of data transforms or delta profiles

permitting transformation of color measurement data between distinct color calibration standards. See col. 3, line 10 to col. 4, line 25.

The invention of claim 11 contains features that are analogous to and performing the same method of claim 1. As Van Aken has met the limitations of claim 1, it is readily apparent that the applied prior art performs the underlying elements. As such, the limitations of claim 11 are therefore, rejected under the same rationale as claim 1. In addition, Van Aken discloses transformation measurement data that is transmitted over different network locations (as depicted at fig. 1). See col. 4, lines 14-23.

As per claim 12, Van Aken discloses transmitting the data transform or delta profile from the first network location (e.g., via color station # 1) to the second network location (e.g., master color laboratory 10, see fig. 1) across a network (36, fig. 1) to permit the selective transformation.

As per claim 13, Van Aken discloses transmitting the color transformation measurement data from the first network location (e.g., via color station # 1) to the second network location (e.g., master color laboratory 10, see fig. 1) across a network (36, fig. 1) to permit the selective transformation. See col. 4, line 14 to col. 5, line 19.

As per claim 14, Van Aken discloses the first network location includes a server (34, fig. 1) that communicates with the first color measuring instrument and a plurality of other color measuring instruments (e.g., color station # 1, color station # 2, and color station # 3) across a network (36).

As per claim 15, Van Aken discloses transmitting the restandardized color measurement data across a network for comparison with additional color measurement

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data that is based on the second color calibration standard. See col. 4, line 1 to col. 5, line 19.

As per claim 16, Van Aken discloses a plurality of data transforms or delta profiles are provided, each of the plurality of data transforms or delta profiles permitting transformation of color measurement data between distinct color calibration standards. See col. 3, line 10 to col. 4, line 25.

As per claim 17, claim 17 is noted to comprise a system with a memory and a processor that performs features that are analogous to and included in the method of claim 1. As Van Aken has met the limitations of claim 1, it is readily apparent that the applied prior art performs the underlying elements. As such, the limitations of claim 11 are therefore, rejected under the same rationale as claim 1. In addition, Van Aken, at fig. 1, inherently discloses a processor (22) in communication with a memory (not shown), wherein the processor is programmed to access the at least one data transform or delta profile (28) and to run the data transform or delta profile so as to transform color measurement data generated by a first color measuring instrument from a first color calibration standard (10) to the second color calibration standard (20). See col. 3, line 20 to col. 4, line 42. (It is noted that since the system of Van Aken incorporates a computer, it is inherent that such a computer would incorporate a memory and a processor to perform the required tasks.

As per claim 18, Van Aken, at fig. 1, discloses a color-measuring instrument (24) in communication with a processor (22).

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As per claim 20, Van Aken, at fig. 1, discloses a processor (incorporated in item 22 or 14 or 34 of fig. 1) that communicates with a network (36), and a color measurement data that is transformed by running of the data transform or delta profile is transmitted to at least one remote location across the network by the processor. . See col. 3, line 15 to col. 4, line 24.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Aken.

As per claim 3, Van Aken fails to disclose the selectively transforming is effected in response to a user command. However, it is to be noted that since in Van Aken the remeasurements of color values are electronically transmitted to the master color lab by the remote workstation (see col. 2, lines 30-36), and that the corrected color information is displayed on a computer screen of remote workstation (see fig. 4) for further review (see col. 4, lines 20-40), it is obvious that the transmitted color measurement data for review is effected in response to a user command. See also col. 5, lines 40-46 which suggests that the certified correction tolerances are established on a customer-by-customer basis.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Van Aken to include that the selectively transforming is effected in response to a user command; in order to enhance the functionality of the system.

Claim 19 contains features that are analogous to the limitations recited in claim 3, claim 19, is therefore, rejected under the same rationale as claim 3.

Allowable Subject Matter

6. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, because the prior art of record fail to teach a method of transforming color measurement data by selectively transforming the color measurement data using the data transform or delta profile, so as to restandardize the color measurement data to the second color calibration standard, wherein the selectively transforming the restandardizes color measurement data is from a first centroid to a second centroid.

Conclusion

4. The prior art made of record and pertinent to this application are as recited in the PT0-892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajous Wesner whose telephone number is 571-272-7791. The examiner can normally be reached on Mondays thru Fridays between 11:00 AM and 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wesner Sajous -WS-



12/24/05